

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Russell Davis,

Case No. 4:17 CV 1126

Petitioner,

ORDER DISMISSING PETITION

-vs-

JUDGE JACK ZOUHARY

Ohio State Board of Parole,

Respondent.

Petitioner *pro se* Russell Davis filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 (Doc. 1). Respondent answered (Doc. 5), but Petitioner did not file a response or traverse. The case was referred to Magistrate Judge George Limbert for a Report and Recommendation (R&R) under Local Civil Rule 72.2(b). The R&R (Doc. 6) recommends this Court dismiss the Petition with prejudice because Respondent does not have legal custody of Petitioner, and this Court cannot set aside or void a detainer or warrant that does not exist.

Under 28 U.S.C. § 636(b)(1), a party must serve and file his written objections to the Magistrate Judge's proposed findings and recommendations within fourteen (14) days of being served with the R&R. This Court then makes a *de novo* determination of those portions of the R&R to which objections were made. Failure to file objections within the time frame set forth in the statute constitutes a waiver of *de novo* review by the district court. *See United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005). *See also Thomas v. Arn*, 474 U.S. 140 (1985).

Petitioner's deadline for filing objections has passed, and no objections were filed. The R&R accurately states the facts and law, which this Court adopts in its entirety. Accordingly, the Petition is denied and this action is dismissed. This Court further certifies that there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c).

IT IS SO ORDERED.

s/ Jack Zouhary  
JACK ZOUHARY  
U. S. DISTRICT JUDGE

January 31, 2019